

# ARNOLD & PORTER LLP

**Jonathan S. Martel**  
Jonathan.Martel@aporter.com

+1 202.942.5470  
+1 202.942.5999 Fax

601 Massachusetts Ave., NW  
Washington, DC 20001-3743

## **CONTAINS CONFIDENTIAL BUSINESS INFORMATION**

April 11, 2016

### **VIA ELECTRONIC TRANSMISSION**

Jocelyn Adair, Esq  
Office of Enforcement & Compliance Assurance  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Susan Stahle, Esq  
Office of General Counsel  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Cleophas Jackson  
Office of Transportation Air Quality  
U.S. Environmental Protection Agency  
2000 Traverwood Drive  
Ann Arbor, Michigan 48105

Gregory Binder, Branch Chief  
Vehicle, Parts & Consumer Products  
Enforcement Branch  
California Air Resources Board  
9258 Telstar Avenue, Annex 3  
El Monte, California 91731

Jacqueline Lourenco, Chief  
Emissions Compliance, Automotive Regulations  
& Science Division  
New Vehicle/Engine Programs Branch  
California Air Resources Board  
9500 Telstar Avenue  
El Monte, California 91731

# ARNOLD & PORTER LLP

April 11, 2016

Page 2

Re: Kohler Engine Certifications

Dear Jocelyn, Susan, Cle, Greg and Jackie:

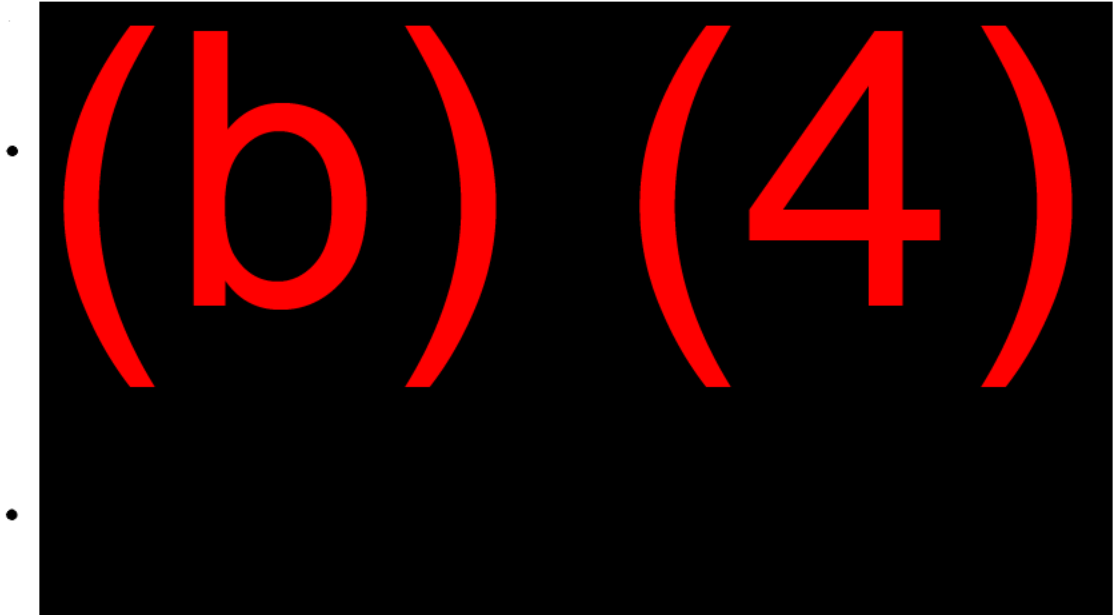
We want first to express our appreciation to you and your colleagues at EPA and at ARB for making yourselves available for our teleconference last Thursday to discuss the status of (i) our investigation concerning the compliance issues we self-disclosed in December, and (ii) the certification of Kohler's MY 2016 engines, including Kohler's ongoing emissions testing for its engines. We thought the discussion was constructive, and hope you did as well. We regret that we ran out of time, and look forward to continuing the discussion once the agencies have reviewed the information and data Kohler has recently supplied. Please note that this submission contains Confidential Business Information submitted pursuant to 40 C.F.R. § 2.203(b) and corresponding California law.

(b) (4)

- (b) (4)
- 
-

April 11, 2016

Page 3



In sum, Kohler believes that it is redressing the prior compliance issues that it voluntarily disclosed to ensure current compliance for MY 2016 engines. We believe that confirmatory low-hour testing will be completed in the coming weeks, and that DF testing should be completed in the first half of the year. Of course, Kohler is fully aware that it will bear enforcement responsibility for sale of any engines that are not compliant.

Beyond this overall perspective, we want to address a number of follow up items to our discussion:

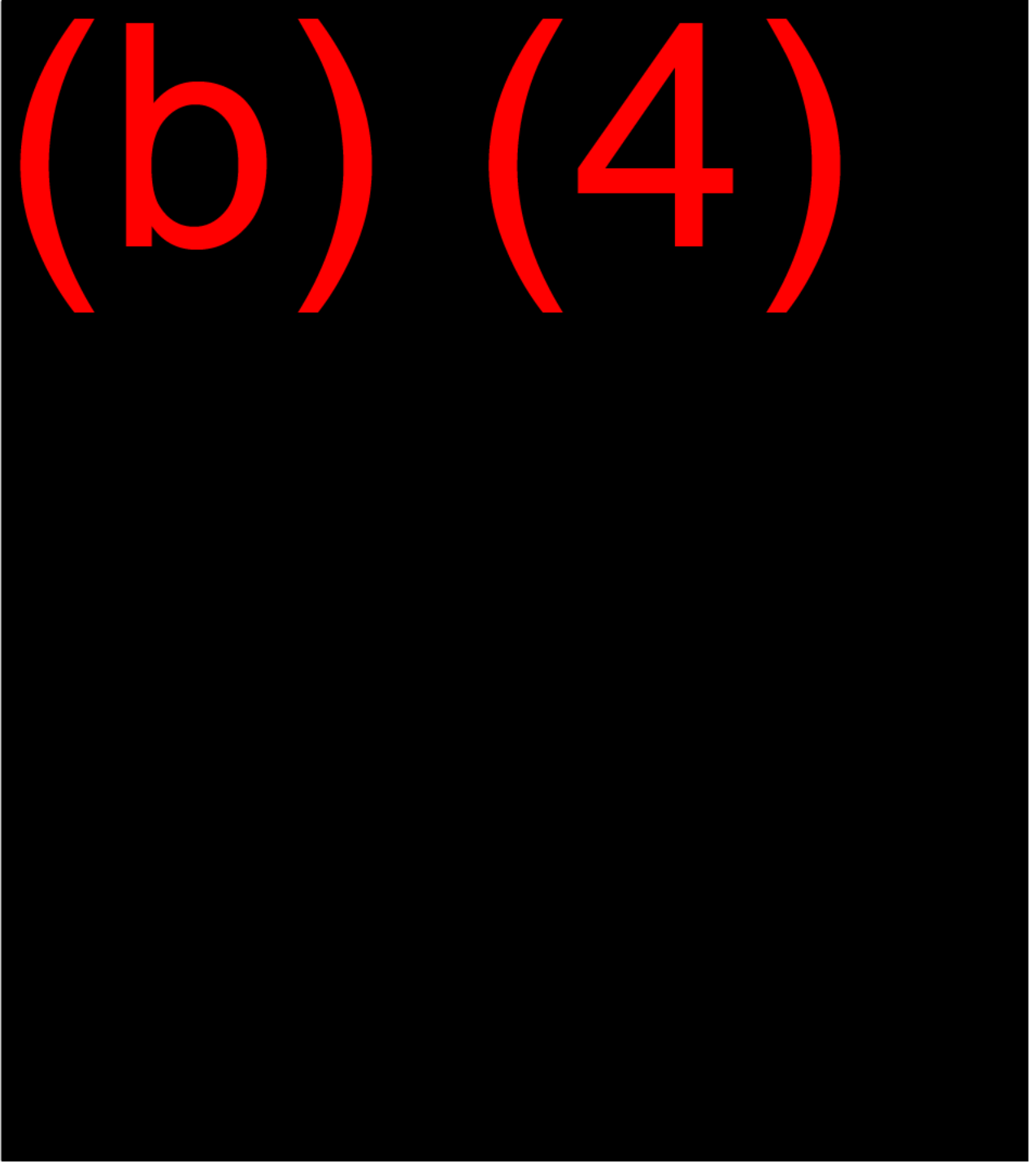
1. Information from meeting. Enclosed are the documents we showed by Webex during yesterday's teleconference, consisting of (i) relevant Kohler organizational charts and (ii) (b) (4), which we had provided as a sample. We will provide you, as requested, with information on (b) (4). (b) (4) (b) (4) are submitted as CBI, pursuant to 40 C.F.R. Part 2 and corresponding California law.) Also enclosed is a list of participants in Thursday's call.

2. Low-hour test data. As you requested, Kohler is compiling and will provide shortly the full test reports (b) (4)

(b) (4)

April 11, 2016  
Page 4

(b) (4)



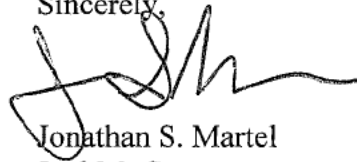
# ARNOLD & PORTER LLP

April 11, 2016

Page 5

Please let us know if you have any questions on the foregoing, the attached information or any information we provided yesterday. We look forward to continuing the dialogue.

Sincerely,



Jonathan S. Martel  
Joel M. Gross

Enclosures

cc: Phil Carlson, EPA  
Julia Giuliano, EPA  
Kumar Muthukumar, ARB  
Alan Chow, ARB

(b) (4)

**Kohler Meeting with EPA and ARB - April 7, 2016**  
**Kohler Attendance List**

(b) (4)

[REDACTED]

Jonathan Martel (Arnold & Porter)

Joel Gross (Arnold & Porter)

Brett Marston (Arnold & Porter)

(b) (4)

[REDACTED]

(b) (4)

(b) (4)



(b) (4)

(b) (4)

(b) (4)

(b) (4)

(b) (4)

(b) (4)